Supreme Court, U.S.
FILED
MAY 3 1996
CLERK

(5)

No. 95-938

In the Supreme Court of the United States

OCTOBER TERM, 1995

IMMIGRATION AND NATURALIZATION SERVICE,
PETITIONER

v.

YUEH-SHAIO YANG

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOINT APPENDIX

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Los Angeles, CA 90010
(213) 387-0954

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for Respondent

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Washington, D.C. 20530
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Counsel of Record
for Petitioner

PETITION FOR A WRIT OF CERTIORARI FILED: DECEMBER 13, 1995
CERTIORARI GRANTED: FEBRUARY 20, 1996

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The following documents have been omitted in printing this Joint Appendix, pursuant to Sup. Ct. R. 26.1, because they appear on the cited pages in the Appendix to the Petition for a Writ of Certiorari:

Appendix A:	Opinion of the Court of Appeals (June 22, 1995)	1a-4a
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UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

ORDER TO SHOW CAUSE AND NOTICE OF HEARING

In Deportation Proceedings under Section 242 of the Immigration and Nationality Act

File No. A36 413 841

UNITED STATES OF AMERICA:

In the Matter of Mr. Yueh Shaio YANG
816 Chester Avenue
San Marino, CA 91108

Address (number, street, city, state and ZIP code)

Respondent.

UPON inquiry conducted by the Immigration and Naturalization Service, it is alleged that:

1. You are not a citizen or national of the United States;
2. You are a native of China
   and a citizen of Republic of China.
3. You entered the United States at Los Angeles, California on or about August 1, 1978;

(SEE ATTACHED COPY AND MADE A PART HEREOF)

AND on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

(SEE ATTACHED COPY AND MADE A PART HEREOF)

WHEREFORE, YOU ARE ORDERED to appear for hearing before an Immigration Judge of the Immigration and Naturalization Service of the United States Department of Justice at A PLACE AND DATE TO BE SET on _____at _____m, and show cause why you should not be deported from the United States on the charge(s) set forth above.

Dated: January 6, 1992

/s/ JOHN BRUSTEAD
JOHN BRUSTEAD
(signature and title of issuing officer)
ASSISTANT DISTRICT DIRECTOR,
INVESTIGATIONS
LOS ANGELES, CALIFORNIA
(City and State)

EXHIBIT No 1
MAR 19 1992
(DATE) (INITIALS)
de

Form 1-221 (Rev. 7-1-73) (over)

[0335]

Mr. Yueh-Shaio YANG

January 6, 1992

FACTUAL ALLEGATIONS

4. You were then admitted as an immediate relative immigrant upon presentation of an immigrant visa issued to you as a spouse of a citizen of the United States by a United States Consulate official at Taipei Taiwan, Republic of China on May 24, 1978, pursuant to an application for such visa execution by you under oath, before that official;
5. In support of the application you submitted a marriage certificate reflecting that you married Mary Wong at Taipei Taiwan China and a birth certificate reflecting the birth of Mary Wong on February 25, 1931, at San Francisco, California;
6. On November 11, 1958, the afore mentioned Mary Wong, a United States Citizen, died at San Francisco, California;
7. At the time of your admission to the United States as an immigrant you were not the immediate relative of a citizen of the United States;
8. You entered the United States for the purpose of performing skilled or unskilled labor in the United States;
9. At the time of your application for an immigrant visa and at the time of your admission to the United States you did not possess or present a Labor Certificate issued by a representative of the Secretary of Labor.

AND on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

Section 241(a)(1)(A) of the Immigration and Nationality Act, as amended, in that at the time of entry or adjustment of status you were within one

or more of aliens excludable by the law existing at the time of entry, to wit: aliens who are seeking to enter for the purpose of performing skilled or unskilled labor and in whose cases the Secretary of Labor has not made the certification as provided by Section 212(a)(14) of the Act.

Section 241(a)(1)(A) of the Immigration and Nationality Act, as amended, in that at the time of entry or adjustment of status you were within one or more classes of aliens excludable by the law existing at the time of entry, to wit: aliens who are immigrants not in possession of a valid, unexpired immigrant visa, re-entry permit, border crossing identification card, or other valid entry document and not exempted from the possession thereof by said act or regulations made thereunder, under Section 212(a)(20) of the Act.

NOTICE TO RESPONDENT

ANY STATEMENT YOU MAKE MAY BE USED AGAINST YOU IN DEPORTATION PROCEEDINGS

THE COPY OF THIS ORDER SERVED UPON YOU IS EVIDENCE OF YOUR ALIEN REGISTRATION WHILE YOU ARE UNDER DEPORTATION PROCEEDINGS. THE LAW REQUIRES THAT IT BE CARRIED WITH YOU AT ALL TIMES

If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Immigration and Naturalization Service. You should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you should bring the original and certified translation thereof. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Order to Show Cause and that you are deportable on the charges set forth therein. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. Failure to attend the hearing at the time and place designated hereon may result in a determination being made by the Immigration Judge in your absence.

You will be advised by the Immigration Judge, before whom you appear, of any relief from deportation, including the privilege of departing voluntarily, for which you may appear eligible. You will be given a reasonable opportunity to make any such application to the Immigration Judge.

Failure to attend the hearing at the time and place designated hereon may result in your arrest and detention by the Immigration and Naturalization Service.

REQUEST FOR PROMPT HEARING

To expedite determination of my case, I request an immediate hearing, and waive any right I may have to more extended notice.

_____
(signature of respondent)

Before:

_____
(signature and title of witnessing officer) (date)

CERTIFICATE OF SERVICE

This order and notice were served by me on 1-29-92 in the following manner: (date)

/s/ [illegible]
(signature and title of employee or officer)

[0336]

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

ADDITIONAL CHARGES OF DEPORTABILITY

FILE NO. A36 413 841

UNITED STATES OF AMERICA
IN THE MATTER OF YANG, Yueh Shaio, Respondent.

IN DEPORTATION PROCEEDINGS UNDER SECTION 242 OF THE IMMIGRATION AND NATIONALITY ACT
[Spanish Translation Omitted]

TO: (A) YANG, Yueh Shaio
There is hereby lodged against you the additional charges(s) that you are subject to be taken into custody and deported pursuant to the following provision(s) of law: (Spanish Translation Omitted)

Section 241(a)(1)(A) of the Immigration & Nationality Act, as amended, in that at the time of entry or adjustment of status you were within one or more or the classes of aliens excludable by the law existing at such time, to wit, aliens who have procured a visa or other documentation by fraud or by willfully misrepresenting a material fact, under Section 212(a)(19) of the Act.

In support of the additional charge(s) there is submitted the following factual allegation(s) in addition to those set forth in the order of show cause and notice of hearing: (Spanish Translation Omitted)

EXHIBIT No. 1-A
OCT 26 1992
(DATE) (INITIALS)

10-26-92 /s/ WILLIAM KIANG
Date WILLIAM KIANG
Trial Attorney

[0326]

ADDITIONAL ALLEGATIONS-CONTINUED
(Spanish Translation Omitted)

NOTICE OF RIGHTS
(Spanish Translation Omitted)

You may be represented, at no expense to the United States government, by an attorney or other individual who is authorized and qualified to represent persons in these proceedings. You may also be represented by a friend, relative, or other person having a pre-existing relationship with you, provided his or her appearance is permitted by the immigration judge.

You will have a hearing before an immigration judge, scheduled no sooner than 14 days from the date you are served with the Order to Show Cause. (Unless you request in writing an earlier hearing date.) The 14 day period is allow you to seek an attorney or representative, if you desire to be represented.
[Spanish Translation Omitted]

CERTIFICATE OF SERVICE

This form was served by me at _____ on _____, 19____

by [ ] Personal Service
[ ] Certified Mail - Return Receipt Requested
[ ] Alien
[ ] Counsel of Record

to:_____
Address

_____
Signature of Issuing Person

_____
Alien's Signature (acknowledgement / receipt of this form)

[0327]

Form 1-261 8/18/92

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

OMB NO. 1115-0009
Approval Expires 1/31/84

APPLICATION TO FILE PETITION FOR NATURALIZATION

FEE STAMP 77786

Mail or take to:
IMMIGRATION AND NATURALIZATION SERVICE

(See INSTRUCTIONS. BE SURE YOU UNDERSTAND EACH QUESTION BEFORE YOU ANSWER IT. PLEASE PRINT OR TYPE.)

ALIEN REGISTRATION
(Show the exact spelling of your name as it appears on your alien registration receipt card, and the number of your card. If you did not register, so state.)
Name YANG, YUEH-SHIAO
No. A36-413-841

Section of Law 319(a) (Leave Blank)

Date: April 3, 1982

(1) My full true and correct name is Yueh Shiao YANG (Full true name without abbreviations)

(2) I now live at 816 Chester Ave. (Number and street.)
San Marino, CA. 91108 (City, county, state, zip code)

(3) I was born on 7-15-20 (Month) (Day) (Year) in Shanghai, Kiangsu, CHINA (City or town) (County, province, or state) (Country)

(4) I request that my name be changed to Frank Yueh-Shiao YANG

(5) Other names I have used are: same (Include maiden name) Sex: ☒ Male ☐ Female

(6) Was your father or mother ever a United States citizen? ☐ Yes ☒ No (If "Yes", explain fully)

(7) Can you read and write English? ☒ Yes ☐ No

(8) Can you speak English? ☒ Yes ☐ No

(9) Can you sign your name in English? ☒ Yes ☐ No

(10) My lawful admission for permanent residence was on 8-1-1978 (Spouse is U.S. Citizen) (Month) (Day) (Year) under the name of YANG, YUEH-SHIAO at Los Angeles, CA. (City) (State)

(11) (a) I have resided continuously in the United States since August 1, 1978 (Month) (Day) (Year)

(b) I have resided continuously in the State of California since August 1, 1978 (Month) (Day) (Year)

(c) During the last five years I have been physically in the United States for a total of 33½ months.

From -	To -	Street Address	City and State
(a) July, 1980	Present Time	816 Chester Avenue	San Marino, CA.
(b) August, 1978	July, 1980	569 Woodland Road	Pasadena, CA.
(c) , 19	, 19		
(d) , 19	, 19		

(14) (a) Have you been out of the United States since your lawful admission as a permanent resident? ☒ Yes ☐ No
If "Yes" fill in the following information for every absence of *less than 6 months*, no matter how short it was.

Date Departed	Date Returned	Name of Ship, or of Airline, Railroad Company, Bus Company, or Other Means Used to Return to the United States	Place or Port of Entry Through Which You Returned to the United States
11-10-78	2-16-79	China Airline	LOS
4-7-79	6-15-79	China Airline	LOS
7-28-79	11-23-79	China Airline	LOS

(cont. below)

(b) Since your lawful admission, have you been out of the United States for a period of 6 *months or longer*? ☐ Yes ☒ No
If "No", state "None"; If "Yes", fill in following information for every absence of more than 6 months.

Date Departed	Date Returned	Name of Ship or of Airline, Railroad Company, Bus Company, or Other Means Used to Return to the United States	Place or Port of Entry Through Which You Returned to the United States
2-9-80	3-23-80	China Airline	Los Angeles, CA.
1-10-81	2-6-81	" "	LOS

EXHIBIT No. 8
OCT 26 1992
(DATE) (INITIALS)

(Over)

(15) The law provides that you may not be regarded as qualified for naturalization, if you knowingly committed certain offenses or crimes, even though you may not have been arrested. Have you ever, in or outside the United States:

(a) knowingly committed any crime for which you have not been arrested? ☐ Yes ☒ No

(b) been arrested, cited, charged, indicted, convicted, fined or imprisoned for breaking or violating any law or ordinance, including traffic regulations? ☐ Yes ☒ No

If you answer "Yes" to (a) or (b), give the following information as to each incident.

	When	Where (City)	(State)	(Country)	Nature of Offense	Outcome or Case, If Any
(a)						
(b)						
(c)						
(d)						
(e)						

(16) List your present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society or similar group in the United States or in any other country or place, and your foreign military service. (If none, write "None.")

(a) _____ 19___ to 19___
(b) _____ 19___ to 19___
(c) _____ 19___ to 19___
(d) _____ 19___ to 19___
(e) _____ 19___ to 19___
(f) _____ 19___ to 19___
(g) _____ 19___ to 19___

(17) (a) Are you now, or have you ever, in the United States or in any other place, been a member of, or in any other way connected or associated with the Communist Party? (If "Yes", attach full explanation) ☐ Yes ☒ No

(b) Have you ever knowingly aided or supported the Communist Party directly, or indirectly through another organization, group or person? (If "Yes", attach full explanation) ☐ Yes ☒ No

(c) Do you now or have you ever advocated, taught, believed in, or knowingly supported or furthered the interests of Communism? (If "Yes", attach full explanation) ☐ Yes ☒ No

(18) During the period March 23, 1933 to May 8, 1945, did you serve in, or were you in any affiliated with, either directly or indirectly, any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, citizen unit, unit of the Nazi Party or SS, government agency or office, extermination camp, concentration camp, prisoner of war camp, prison, labor camp, detention camp or transit camp, under the control of or affiliated with:

(a) the Nazi Government of Germany ☐ Yes ☒ No

(b) any Government in any area occupied by, allied with, or established with the assistance or cooperation of, the Nazi Government of Germany? ☐ Yes ☒ No

(19) During the period March 23, 1933 to May 8, 1945, did you ever order, incite, assist, or otherwise participate in the persecution of any person because of race, religion, national origin, or political opinion? ☐ Yes ☒ No

(20) Have you borne any hereditary title or have you been of any order of nobility in any foreign state? ☐ Yes ☒ No

(21) Have you ever been declared legally incompetent or have you ever been confined as a patient in a mental institution? ☐ Yes ☒ No

(22) Are deportation proceedings pending against you, or have you ever been deported or ordered deported, or have you ever applied for suspension of deportation? ☐ Yes ☒ No

(23) (a) My last Federal income tax return was filed 1981 (year) Do you owe any Federal taxes? ☐ Yes ☒ No

(b) Since becoming a permanent resident of the United States, have you:

—filed an income tax return as a nonresident? ☐ Yes ☒ No

—failed to file an income tax return because you regarded yourself as a nonresident? ☐ Yes ☒ No

(If you answer "Yes" to (a) or (b) explain fully.)

(24) Have you ever claimed in writing, or in any other way, to be a United States citizen? ☐ Yes ☒ No

(25) (a) Have you ever deserted from the military, air, or naval forces of the United States? ☐ Yes ☒ No

(b) If male, have you ever left the United States to avoid being drafted into the Armed Forces of the United States? ☐ Yes ☒ No

(26) The law provides that you may not be regarded as qualified for naturalization if, at *any* time during the period for which you are required to prove good moral character, you have been a habitual drunkard; committed adultery; advocated or practiced polygamy; have been a prostitute or procured anyone for prostitution; have knowingly and for gain helped any alien to enter the United States illegally; have been an illicit trafficker in narcotic drugs or marijuana; have received your income mostly from illegal gambling, or have given false testimony for the purpose of obtaining any benefits under this Act. Have you ever, *anywhere*, been such a person or committed any of these acts? (If you answer yes to any of these, attach full explanation.) ☐ Yes ☒ No

(27) Do you believe in the Constitution and form of government of the United States? ☒ Yes ☐ No

(28) Are you willing to take the full oath of allegiance to the United States? (See Instructions) ☒ Yes ☐ No

(29) If the law requires it, are you willing:

(a) to bear arms on behalf of the United States? (If "No", attach full explanation) ☒ Yes ☐ No

(b) to perform noncombatant services in the Armed Forces of the United States? (If "No", attach full explanation) ☒ Yes ☐ No

(c) to perform work of national importance under civilian direction? (If "No", attach full explanation) ☒ Yes ☐ No

(30) (a) If male, did you ever register under United States Selective Service laws or draft laws? ☐ Yes ☒ No

If "Yes" give date_____; Selective Service No._____; Local Board No._____; Present classification_____

(b) Did you ever apply for exemption from military service because of alienage, conscientious objections, or other reasons? ☐ Yes ☒ No

If "Yes," explain fully.....

0231

(31) If serving or ever served in the Armed Forces of the United States, give branch N.A.; from ____ 19__ to ____ 19__; and from ____ 19__ to ____ 19__
☐ inducted or ☐ enlisted at ____; Service No. ____;
type of discharge ____ (Honorable, Dishonorable, etc.); rank at discharge ____;
reason for discharge ____ (discharge, conscientious objector, other)
☐ Reserve or ☐ National Guard from ____ 19__ to ____

(32) My occupation is Property management

List the names, addresses, and occupations (or types of business) of your employers during the last 5 years. (If none, write "None.")
List present employment FIRST.

From-	To-	Employer's Name	Address	Occupation or Type of Business
(a) August 1978	Present Time	Yang & Yang Property Mangement	816 Chester Ave. San Marino, CA.	ppty mgmt.
(b) ____ 19__	____ 19__			
(c) ____ 19__	____ 19__			
(d) ____ 19__	____ 19__			

(33) Complete this block if you are or have been married.

I am married (Separated, married, divorced, widowed) The first name of my husband or wife is (was) Mary

We were married on 5-17-78 at Taipei, Taiwan He or she was born at San Francisco, CA. U.S.A. on 2-15-31 He or she entered the United States at (place) n/a on (date) ____ for permanent residence and now resides ☐ with me ☐ apart from me at ____ (Show full address if not living with you.)

He or she was naturalized on ____ at ____; Certificate No. ____
or became a citizen by by birth in the U.S. His or her Alien Registration No. is ____

(34) How many times have you been married? 2 How many times has your husband or wife been married? 1 If either of you has been married more than once, fill in the following information for each previous marriage.

Date Married	Date Marriage Ended	Name of Person to Whom Married	Sex	(Check One) Person Married Was Citizen ☐ Alien ☐	How Marriage Ended
(a) 1945	12-12-77	WANG, Hai Hsia		☐ ☒	divorced
(b) ____				☐ ☐	
(c) ____				☐ ☐	
(d) ____				☐ ☐	

(35) I have 3 (Number) children: (Complete columns (a) to (h) as to each child. If child lives with you, state "with me" in column (h), otherwise give city and State of child's residence.)

(a) Given Names	(b) Sex	(c) Place Born (Country)	(d) Date Born	(e) Date of Entry	(f) Port of Entry	(g) Alien Registration No.	(h) Now Living at-
H. C.	male	China	1-1-49	2-16-79	LOS	A36528169	Los Angeles, CA.
Kui Li	female	Taiwan	4-6-51	8-1-77	HHW	A36334754	with me
Li Chuan	"	"	8-29-53	2-16-79	LOS	A36527943	" "
Li Chu	"	"	12-7-55	2-16-79	LOS	A36527944	" "
Li Jui	"	"	9-30-58	2-16-79	LOS	A36527945	" "

(36) READ INSTRUCTION NO. 6 BEFORE ANSWERING QUESTION (36)

I do not want certificates of citizenship for those of my children who are in the U.S. and are under age 18 years that are named below.
(Do) / (Do Not)

(Enclose $15 for each child for whom you want certificates, otherwise, send no money with this application.)

(Write names of children under age 18 years and who are in the U.S. for whom you want certificates)

If present spouse is not the parent of the children named above, give parent's name, date and place of naturalization, and number of marriages.

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(4) Gwok Shiao Jang 8-27-82

Signature of person preparing form, if other than applicant.	SIGNATURE OF APPLICANT Gwok Shiao Jang
I declare that this document was prepared by me at the request of applicant and is based on all information of which I have any knowledge. SIGNATURE	ADDRESS AT WHICH APPLICANT RECEIVES MAIL 816 Chester Avenue San Marino, CA. 91108
ADDRESS: DATE:	APPLICANT'S TELEPHONE NUMBER 795-6374

TO APPLICANT: DO NOT FILL IN BLANKS BELOW THIS LINE.

NOTE CAREFULLY.—This application must be sworn to before an officer of the Immigration and Naturalization Service at the time you appear before such officer for examination on this application.

AFFIDAVIT

I do swear that I know the contents of this application comprising pages 1 to 4, inclusive, and the supplemental forms thereto, No(s). _____, subscribed to by me; that the same are true to the best of my knowledge and belief; that corrections numbered (1) to (2) were made by me or at my request; and that this application was signed by me with my full, true, and correct name, SO HELP ME GOD:

Gwok Shiao-Jang
(Complete and true signature of applicant)

Subscribed and sworn to before me by applicant at the preliminary investigation (A.) at Los Angeles

this 27 day of August, 1982.

I certify that before verification the above applicant stated in my presence that he/she had (heard) read the foregoing application, corrections therein and supplemental form(s) and understood the contents thereof.

Francisco G. Flores
(Naturalization examiner)

It's a very nice day in California.
(For demonstration of applicant's ability to write English)

(1st witness. Occupation) _____

(2nd witness. Occupation) _____

Nonfiled _____

(Date, Reasons)

NOTICE TO APPLICANTS:

Authority for collection of the information requested on this form and those forms mentioned in the instructions thereto is continued in Sections 328, 329, 332, 334; 335 or 341 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1439, 1440, 1443, 1445, 1446 or 1452). Submission of the information is voluntary inasmuch as the immigration and nationality laws of the United States do not require an alien to apply for naturalization. If your Social Security number is omitted from a form, no right, benefit or privilege will be denied for your failure to provide such number. However, as military records are indexed by such numbers, verification of your military service, if required to establish eligibility for naturalization, may prove difficult. The principal purposes for soliciting the information are to enable designated officers of the Immigration and Naturalization Service to determine the admissibility of a petitioner for naturalization and to make appropriate recommendations to the naturalization courts. All or any part of the information solicited may, as a matter of routine use, be disclosed to a court exercising naturalization jurisdiction and to other federal, state, local or foreign law enforcement or regulatory agencies, Department of Defense, including any component thereof, the Selective Service System, the Department of State, the Department of the Treasury, Central Intelligence Agency, Interpol and individuals and organizations in the processing of the application or petition for naturalization, or during the course of investigation to elicit further information required by the Immigration and Naturalization Service to carry out its function. Information solicited which indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature may be referred, as routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating, enforcing or prosecuting such violations. Failure to provide any or all of the solicited information may result in an adverse recommendation to the court as to an alien's eligibility for naturalization and denial by the court of a petition for naturalization.

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Washington, D.C. 20402 (per 100)

U.S. GOVERNMENT PRINTING OFFICE : 1981 O—331-296

0230

Supreme Court of the United States

No. 95-938

IMMIGRATION AND NATURALIZATION SERVICE,
PETITONER

v.

YUEH-SHAIO YANG

[Filed Feb. 20, 1996]

ORDER ALLOWING CERTIORARI

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted.